

H O W A R D, Chief Judge.

¶1 The juvenile court adjudicated Dakota L. delinquent of third-degree burglary and theft. The court reinstated Dakota on probation for one year and ordered that he be placed in detention for ninety days, giving credit for forty-two days and suspending forty-seven days, with one day deferred, with the condition that Dakota complete an education class. On appeal, Dakota argues insufficient evidence supported his burglary adjudication.

¶2 We view the evidence in the light most favorable to upholding the juvenile court's adjudication. *In re Julio L.*, 197 Ariz. 1, ¶ 6, 3 P.3d 383, 384-85 (2000). In May 2011, in response to students' allegations of theft, a police officer and the dean of Dakota's school placed a gym bag containing several items, including a billfold containing three one-dollar bills, in the school's locker room. The officer then waited in the locker room's office where he had a view of the gym bag. Dakota, then sixteen years old, entered the empty locker room, retrieved pants and shorts from a closed locker, and looked around as if "he was seeing if there was anyone in the locker room." Dakota then opened the gym bag and, after looking through it, removed the billfold, taking the three one-dollar bills and placing them in his pocket.

¶3 Dakota then moved to a second locker, opened it, and searched through some of the items in the locker, but did not remove anything from it. Dakota also opened and closed a third locker, but the officer did not see if Dakota searched any items in that locker. The officer then confronted Dakota, who eventually admitted having previously stolen money from lockers in the preceding weeks. And, earlier that day, Dakota had told

a friend about going into the locker room to steal money. At his adjudication hearing, Dakota testified he had permission from a friend to enter the second locker.

¶4 The state filed a petition alleging Dakota was delinquent based on his commission of third-degree burglary and theft. After a hearing, the juvenile court found the state had proven beyond a reasonable doubt that Dakota had committed burglary and theft and adjudicated Dakota delinquent. The court entered the disposition as described above, and this appeal followed.

¶5 Dakota argues there was insufficient evidence he entered the second locker unlawfully because the state presented no evidence showing to whom the second locker belonged or that Dakota did not have permission to enter it. He additionally asserts there was no evidence he had entered the third locker at all, and his burglary adjudication therefore cannot be based on the third locker. To determine whether evidence is sufficient to support a delinquency adjudication, we consider only whether “a rational trier of fact could have found the essential elements of the offense[s] beyond a reasonable doubt,” *In re Maricopa Cnty. Juv. Action No. JT9065297*, 181 Ariz. 69, 82, 887 P.2d 599, 612 (App. 1994), and we will not disturb the juvenile court’s ruling unless “there is a complete absence of probative facts to support the judgment or . . . the judgment is contrary to any substantial evidence,” *In re John M.*, 201 Ariz. 424, ¶ 7, 36 P.3d 772, 774 (App. 2001).

¶6 We agree with the state that the evidence is sufficient to support the juvenile court’s finding. A person commits third-degree burglary “by entering or

remaining unlawfully in or on a nonresidential structure . . . with the intent to commit any theft or any felony therein.” A.R.S. § 13-1506(A). Unlawful entry includes entry with permission when a person’s reason for entering “is not licensed, authorized or otherwise privileged.” A.R.S. § 13-1501(2). That is, entry is unlawful if the person intends to commit a theft therein. *See State v. Altamirano*, 166 Ariz. 432, 435, 803 P.2d 425, 428 (App. 1990) (“It is clear that although a person enters another’s premises lawfully and with consent, his presence can become unauthorized, unlicensed, or unprivileged if he remains there with the intent to commit a felony.”); *State v. Embree*, 130 Ariz. 64, 66, 633 P.2d 1057, 1059 (App. 1981) (“When a person’s intent in remaining on premises is for the purpose of committing ‘a theft or some felony therein,’ such individual is no more welcome than one who initially entered with such intent.”).

¶7 The evidence clearly permits the inference that Dakota intended to commit theft when he opened and searched the second locker.¹ First, Dakota admitted the second locker was not his, but he asserted a friend had given him permission to enter the locker and had provided him with the combination to the lock. The juvenile court found that claim incredible. And, even assuming he had such permission, Dakota was in the locker room at a time when he was supposed to be elsewhere, looked around to ensure he was alone, and first stole money from the gym bag before rummaging through the second

¹The juvenile court found, and Dakota does not dispute, that the locker constituted a nonresidential structure pursuant to § 13-1501(10) and (12). And, because we find the evidence sufficient to support the court’s finding that Dakota committed burglary by entering the second locker, we do not address his argument based on the third locker.

locker—behavior consistent with an intent to steal from that locker. Moreover, Dakota admitted to previous thefts from the locker room and had spoken with a friend earlier that day about stealing money from the locker room.

¶8 The juvenile court's adjudication of delinquency and disposition are affirmed.

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Peter J. Eckerstrom

PETER J. ECKERSTROM, Presiding Judge

/s/ J. William Brammer, Jr.

J. WILLIAM BRAMMER, JR., Judge